

Notification No. 169—L. C., dated Bangalore, the 8th April 1912.

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the following report of the Select Committee on the Village Courts Bill is published for general information with the Bill as amended by the Committee.

By Order,

S. HIRIYANNAIYA,

Secretary, Mysore Legislative Council.

REPORT OF THE SELECT COMMITTEE ON THE VILLAGE COURTS BILL.

We, the members of the Select Committee appointed to consider the Bill for the establishment of Village Courts in Mysore, have the honor to submit the following report to the Council:—

We have gone through the Bill carefully and recommend the following alterations.

Definitions.—The definitions of the expressions ‘Village Court’ and ‘Village Munsiff’ seem to us to be unnecessary and may only lead to confusion as they are hardly logical as they are worded. Clause 3 of the Bill describes clearly the meaning that has to be attached to both these expressions.

Clause 6.—The proviso contained in sub-clause 2 of this clause regarding certain disqualifications to serve as a member of a Bench of a Village Court applies as it now stands only in the case of nominations made under the circumstances narrated in this sub-clause. But the proviso is equally necessary in the case of nominations made in circumstances referred to in sub-clause (3). We, therefore, recommend that the proviso in sub-clause (2) be omitted and a new proviso in the following terms be inserted at the bottom of sub-clause (3) so as to apply to all nominations made under this section:—

“Provided that the person nominated under this section shall not be the servant, dependant, relative or tenant of the party on whose behalf he is nominated, or shall not be personally interested in the result of the suit.”

Clause 10.—In sub-clause (4) of this clause, the words “Government or” may be omitted on the analogy of similar provisions made in the Civil Procedure Code. It is hardly likely that Government will have any occasion to sue as a plaintiff in a Village Court.

Clause 14.—This clause requires that suits to which the Village Munsiff is a party or in which he is personally interested may be instituted in the Court of the Village Munsiff of an adjoining village. As the Bill does not contemplate the immediate establishment of Village Courts in all the villages in the State and as on this account there may be no Village Court in an adjoining village, we consider it desirable that suits referred to therein should be tried in the Court of the Munsiff having jurisdiction over the matter in dispute.

Clause 22.—This clause may be better recast as follows:—

“No agent except a relative or servant empowered by a written instrument shall be allowed to appear on behalf of any party to a suit in a Village Court, provided that in all cases a Village Court shall be competent to order the personal appearance of any party.”

Clause 26.—This clause may be shortened by the omission of para 3 and the addition of the words “at least two clear days before the day of the hearing” after “served” in para 1.

Clauses 30 and 31.—The period of limitation of thirty days provided for in these clauses need not be mentioned here as due provision has been made for cases arising under both these clauses in Articles 163 and 164 of the first schedule to the Mysore Limitation Regulation.

Clause 38.—In this clause it is provided that summonses to witnesses residing within five miles beyond the jurisdiction of a Village Court are to be served through the Village Munsiff within whose jurisdiction they reside; or if for such village

there is no Village Court, through the Court of the Munsiff within whose jurisdiction they reside. We think that the latter provision requires a slight change. We consider it unnecessary that where there is no Village Court the summons to witnesses should be sent for service to the Court of the Munsiff which may happen to be situated at a considerable distance from the village. It would be convenient and contribute to speedy disposal of work if such summonses are served through the patel of the village in which the witness resides.

If the witness should happen to reside more than five miles beyond the jurisdiction of the Court, he has to be examined on written interrogatories by the Munsiff having jurisdiction over the village in which he usually resides. To provide for cases where the Court of a Munsiff may be too far away, we recommend that Amildars or Deputy Amildars of taluks may be empowered similarly to examine witnesses. The clause may therefore be recast as follows:—

“Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within five miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or, if for such place there is no Village Court, through the patel of the village in which the witness resides. If any witness resides more than five miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff, or, if there is no Village Court for such place, to the Amildar or Deputy Amildar within whose jurisdiction the witness resides, and such Village Munsiff or Amildar or Deputy Amildar shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.”

Clause 41.—It seems to be necessary to specifically provide here that witnesses should be examined in open Court.

Clause 50.—The provisions of this clause have been brought into line with those of Section 60 of the new Code of Civil Procedure, and the benefit of exemption from attachment has been extended as in that code to the cases mentioned in provisos (o), (p) and (q) of that section.

Clause 66.—This clause lays down that no decree shall be passed against the legal representative of a deceased defendant beyond the value of the assets derived from him and not duly accounted for; but we think it would be more correct to say, not that no decree should be passed but that the legal representative shall not be answerable for any decree that may be passed beyond the value of any property derived from him and not duly accounted for. The important point is that the decree should not be executed against the defendant beyond the assets received by him.

Clause 73.—As the power of appointment and dismissal of Village Munsiffs is vested in the Deputy Commissioner, we think it proper that the power to inspect the records of a Village Court should be conferred on the Deputy Commissioner also. We have changed this clause accordingly.

We have added two new clauses of some importance, viz., clauses 8 and 75. The first provides for a seal being given to a Village Court for stamping summonses, decrees and copies of documents issued by it with a view to prevent fabrication of such documents, on the analogy of the provisions contained in the Civil Courts Regulation.

Clause 75 exempts complaints, petitions, and vakalatnamas presented under this Regulation from the payment of court fees. In Madras, only complaints are exempted, but we propose to extend the concession to vakalatnamas and petitions also.

The other changes made in the Bill are of a verbal character and call for no explanation.

In conclusion we recommend that the Bill as amended by us be passed by the Council.

BANGALORE,

7th February 1912.

H. V. Nanjundayya.

K. S. Doraswamy Iyer.

M. Narain Rao.

Syed Amir Hassan.

Mr. M. C. Rangiar, who was also a member of the Select Committee, was unable to be present at the meeting.

A Bill for the establishment of Village Courts in Mysore.

(As amended by the Select Committee.)

[The portions in square brackets are those omitted and those in italics newly added by the Committee.]

Whereas it is expedient to provide for the establishment of Village Courts in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Preamble.

CHAPTER I.

Preliminary.

Title, commencement and Local extent.

1. (1) This Regulation may be called "The Mysore Village Courts Regulation,"

(2) It shall come into force on the first day of

(3) It shall extend to such village or villages in Mysore as may, from time to time, be notified by Government in the Official Gazette.

Interpretation Clause.

2. In this Regulation, unless there is something repugnant in the subject or context,—

"Village" means a local area recognized by Government from time to time as a village for purposes of collecting the land revenue and includes any area for which a Village Court may be established under this Regulation.

["Village Munsiff."]

["Village Munsiff" means the Judge of the Court of a Village Munsiff established under this Regulation.]

["Village Court."]

["Village Court" shall include a Bench constituted under Section 6.]

"District Judge" or "Munsiff" means the District Judge or Munsiff appointed under the Mysore Civil Courts Regulation, I of 1883, within the local limits of whose jurisdiction the Village Court is situate.

"District Judge" and "Munsiff."

CHAPTER II.

Establishment and constitution of Village Courts.

Establishment of Village Courts.

3. The Government may, from time to time, by notification published in the Official Gazette,—

(1) establish a Village Court for any village or specified area;

(2) group two or more villages and establish a Village Court for them;

(3) constitute divisions in any village and establish a separate Village Court for each of such divisions.

A Village Court established under this Regulation shall be held before a Village Munsiff appointed, or a Bench of more than one Judge constituted, as hereinafter provided.

4. Village Munsiffs shall be appointed by the Deputy Commissioner of the District subject to such rules as the Government may, from time to time, prescribe; provided that no person not residing within the village shall be eligible for that office.

Appointment of Village Munsiffs.

5. The Deputy Commissioner of the District may suspend or remove a Village Munsiff for incapacity, neglect of duty, misconduct, or other just and sufficient cause, and shall do so, on a requisition made by the District Judge for like cause appearing in the judicial proceedings of a Village Munsiff.

Suspension or removal of Village Munsiff.

From every order suspending or removing a Village Munsiff, an appeal may be preferred within three months to the Revenue Commissioner if the order was passed by the Deputy Commissioner without [the orders] a requisition from the District Judge, or to the Chief Court, if passed upon such [orders] requisition. The decision of the Revenue Commissioner or the Chief Court, as the case may be, on all such appeals shall be final.

6. (1) For every village in respect of which a Village Court is constituted, and subject to any rules which the Government may make on this behalf, the Deputy Commissioner shall prepare and maintain a list of persons residing in the village and qualified to sit as members of a Bench for the trial of suits brought under this Regulation. Such list shall also be hung up in the Court-house of the Village Munsiff.

(2) In any suit which may be instituted before a Village Court under this Regulation, the plaintiff in his plaint or the defendant in his answer may claim that the suit shall, instead of being tried by the Village Munsiff, be tried by a Bench of three Judges, and nominate as a member of such Bench any person named in the list mentioned in clause (1). [provided that such person is not his servant, dependant, relative or tenant, or personally interested in the result of the suit.]

(3) When the plaintiff has nominated such a person in his plaint, the defendant shall, by the summons, be requested to nominate one also. When the defendant has demanded a Bench and nominated such a person, the plaintiff shall be required to nominate one also: When any person nominated to serve on a Bench declines or is unable to act, the party who nominated him shall be required to make a fresh nomination.

If a requisition under this clause has not been complied with within two clear days after it is made, the Village Munsiff shall himself select from the list a person to serve on the Bench on behalf of the party so making default.

Provided that the person nominated under this section shall not be the servant, dependant, relative or tenant of the party on whose behalf he is nominated, or shall not be personally interested in the result of the suit.

(4) The Village Munsiff shall summon the two persons nominated or selected as aforesaid to sit together with himself for the trial of the suit.

(5) The Village Munsiff shall be the President of such Bench and shall regulate the procedure and issue all summonses, notices and the like in his own name, but the decree shall run in the name of all the three members of the Bench. If the members of the Bench cannot agree, the opinion of the majority shall prevail.

(6) No person summoned under this section to serve on a Bench shall be bound to sit for more than three days in a month; provided that every such person shall be bound to attend the trial of any case which has been commenced before him until its completion.

(7) Whoever, being duly summoned under this section to serve on a Bench, declines or omits to do so, without reasonable excuse, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 20.

7. The Village Munsiff shall keep a register of suits filed in the Village Court and shall write the proceedings of the Court, and may, if necessary, employ any person in the village to assist him in keeping the register and in writing the proceedings.

8. Every Village Court shall use a seal with the name of the Court inscribed in Kannada characters and shall use it for stamping summonses, decrees and copies of documents issued by it.

[8.] 9. It shall be the duty of the village servant usually employed in Service of summonses, etc. carrying messages, to serve all summonses, notices and orders issued under this Regulation and to act under the orders of the Village Munsiff in seizing, delivering and selling movable properties attached under this Regulation.

[9.] 10. The Deputy Commissioner of the district may, with the previous sanction of Government, appoint any other person to perform the duties prescribed by sections 7 and [8] and [9].

CHAPTER III.

Jurisdiction, Res Judicata and Limitation.

Cognizance of suits by Village Courts. [10.] 11. The following are the suits which shall be cognizable by Village Courts, namely:—

Claim based on contract for money due, or claims for [personal] movable property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of rupees twenty, whether on balance of account or otherwise.

Provided that no action shall be brought in any Court—

- (1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents;
- (2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will;
- (3) for the rent for land unless such rent is due upon a written contract signed by the defendant;
- (4) by or against [Government or] public officers in their official capacity;
- (5) by and against minors or persons of unsound mind.

[11.] 12. With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature described in section [10] 11; the amount or value of which shall not exceed Rs. 200.

[12.] 13. No suit cognisable by the Village Munsiff under this Regulation shall be entertained, heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Village Munsiff's Court.

Provided that all such cases pending in any Court at the time this Regulation comes into force shall be heard and determined by such Court; and decrees passed in suits, which shall not have been executed prior to such time, shall be executed by such Courts.

[13.] 14. Subject to the provisions contained in section [14] 15, every suit brought under this Regulation shall be instituted in the Court of the Village Munsiff within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside or carry on business or personally work for gain.

[14.] 15. No Village Munsiff shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit. Every such suit or proceeding may be instituted in the Court of the Munsiff [of any village immediately adjoining] having jurisdiction.

[15.] 16. No Village Court shall try [any suit brought on a cause of action which has been heard and determined by a Court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

[16.] 17. Every suit instituted in a Village Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such Court.

If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

[17.] 18. If in the decision of a suit cognisable by a Village Court under sections [10] 11 and [13] 14 it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognisable under this Regulation by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action, though between the same parties or their representatives.

[18.] 19. The provisions of the Mysore Limitation Regulation shall apply to suits and applications under this Regulation.

Provided that no suit or application shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued.

[19.] 20. The Munsiff may, on the application of any of the parties, withdraw, for just and sufficient cause, any suit from a Village Court and try the suit himself, as if it had been instituted in his Court, or transfer it for trial to any other Village Court within the local limits of his jurisdiction.

Provided that any party applying to have a suit withdrawn from a Village Court and tried by the Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Mysore Court Fees Regulation, 1900, in respect thereof.

CHAPTER IV.

Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance.

[20.] 21. Every suit under this Regulation shall be instituted by presenting a plaint to the Village Munsiff together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

[21.] 22. The plaint shall be written in Kannada and signed by the plaintiff or in his absence by an agent duly authorised by him, and it shall contain the following particulars,—

- (a) the name, description and residence of the plaintiff and defendant;
- (b) A concise statement of the cause of action and when it arose;
- (c) The relief prayed for and the total amount or value of the claim.

[22.] [No advocate or pleader shall as such be permitted to appear on behalf of any party to a suit before a Village Court, but any party to any such suit may appoint by vakalatnama any relative, servant, friend or dependant to appear and plead for him. It shall, however, be competent to the Village Munsiff whenever he thinks it necessary for

the ends of justice, to order the personal attendance of any of the parties to the suit; and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not appear either in person or by an agent.]

23. No agent except a relative or servant empowered by a written instrument shall be allowed to appear on behalf of any party to a suit in a Village Court; provided that in all cases, a Village Court shall be competent to order the personal appearance of any party.

[23.] 24. When the plaint has been duly presented, the Village Munsiff shall cause it to be registered and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day.

The summons shall be accompanied by a copy of the plaint and shall require the defendant to bring his witnesses, if any, on the date fixed for hearing, the plaintiff being likewise directed to appear on that date with his witnesses.

The summons shall be served on the defendant personally and a copy thereof delivered to him.

[24.] 25. If the Village Munsiff is satisfied that the defendant is evading service of the summons, the Village Munsiff may order that it be served upon; and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides and another copy to the court-house of the Village Munsiff.

[25.] 26. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the Munsiff, who shall cause it to be served as if it had been a summons issued by himself, and shall then return it to the Village Court, together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

[26.] 27. If a defendant does not appear in person or by agent on the day fixed, and it is proved that the summons was duly served at least two clear days before the date of hearing, the Village Court may proceed *ex parte*.

If it is not proved that the summons was duly served, the Village Munsiff shall issue a fresh summons.

[Every defendant may claim two clear days' notice of suit, and if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which due notice shall be given to defendant.]

[27.] 28. Every summons served under this Regulation otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued and the amount of fee leviable for such service shall be fixed by Government from time to time and shall be levied by the Village Munsiff in such manner and subject to such rules as may be prescribed in that behalf by [the] Government.

[28.] 29. If, on the day fixed for the defendant to appear,—

- (1) neither party appears; or
 - (2) the plaintiff does not appear and the defendant appears and does not admit the claim; or
 - (3) the summons has not been served owing to the plaintiff's default and the defendant does not appear,
- the suit shall be dismissed unless the Village Court, for good and sufficient cause, otherwise directs.

[29.] 30. If the plaintiff does not appear but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against the defendant in accordance with such admission, provided that, when only a part of the claim is admitted, the Court may adjourn the hearing to a future day.

Procedure where plaintiff does not appear and defendant admits claim.

[30.] 31. Whenever a suit is dismissed under clause (1) or clause (3) of section [28] 29, the plaintiff may bring a fresh suit, and if within [30] days from the date of an order under clause (2) of section 28 dismissing the suit or of a decree passed for only a part of the claim under section 29 the time allowed by the law of limitation the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal or the decree and shall appoint a day for proceeding with the suit.

Setting aside order under Section [28] 29 or [29] 30 on cause shown.

[31.] 32. Any defendant against whom a decree has been passed *ex parte* may, within [30] days from the date of executing any process for its enforcement] the time allowed by the law of limitation, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served or that the defendant was prevented by any sufficient cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit.

Setting aside *ex-parte* decree against defendant.

[32.] 33. No decree shall be set aside on any application under section [30] 31 or section [31] 32 unless notice has been served on the opposite party.

No decree to be set aside without notice to opposite party.

CHAPTER V.

Of the Hearing, Withdrawal or Compromise of Suits, and of the Summoning and Examination of Witnesses.

[33.] 34. When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit is compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections either orally or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Procedure on appearance of both parties.

[34.] 35. If the plaintiff wishes to withdraw [a] the suit, he shall signify the same in writing to the Court which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

Withdrawal of suit.

[35.] 36. If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the Court shall give judgment according to such oath.

When suit may be settled by oath.

[36.] 37. The defendant may set off any amount legally due to him by the plaintiff, for which he could bring a suit in a Village Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Set-off.

[37.] 38. When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Witnesses not present to be summoned.

[38.] 39. Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within 5 miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or if for such [area] place there is no Village Court, through the [Court of

Summons to witnesses how served.

the Munsiff within whose jurisdiction] *the patel of the village in which the witness resides.* If any witness resides more than 5 miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff [within whose jurisdiction the witness resides] or if there is no Village Court for such place, to the Amildar or Deputy Amildar within whose jurisdiction the witness resides, and such Village Munsiff or Amildar or Deputy Amildar shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

[39] 40. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

[40] 41. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in Court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the Village Court shall examine such person at his or her residence.

[41] 42. Witnesses shall be examined *in open Court* on oath or affirmation, but it shall not be necessary for a Village Court to take down depositions of witnesses in writing.

[42] 43. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the Village Court may adjourn the hearing to a day to be fixed in the presence of the parties or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the Village Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections [28] 29 and [29] 30, or make such other order as it thinks fit.

CHAPTER VI.

Of the Decree and its Execution.

[43] 44. When the parties or their agents have been heard, and the evidence on both sides considered, the Village Court shall pass such [a] decree as may seem just, equitable and according to good conscience.

[44] 45. The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs to be paid and by what parties and in what proportions such costs shall be paid.

The decree shall be dated on the day on which it is passed, and signed by the Village Munsiff. When the suit has been heard by a Bench, the decree shall be signed by the members of such Bench concurring therewith. Each party shall be entitled to receive a copy of the decree on application.

[45] 46. In suits for money, the Village Court may decree interest on the sum decreed not exceeding 12 per cent per annum from date of suit till date of payment.

Decree may award interest or order payment by instalments. When a Village Court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

[46] 47. The decree shall be executed by the Village Court which passed it or by a Village Court or Munsiff to whom it is sent for execution under the provisions hereinafter contained.

[47] 48. If the decree is for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property is not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Decree for specific movable how executed.

[48] 49. All money payable under a decree passed by a Village Court shall be paid to the decree-holder or his agent specially authorized in writing, in the presence of the Village Munsiff whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such Village Munsiff.

Payment of money under a decree or other adjustment to be made or recorded in the presence of the Village Munsiff.

Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of suits mentioned in section 7.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised, unless it has been made or recorded in the manner prescribed by this section or in the Court of the Munsiff.

[49] 50. [Subject to the provisions of sections 64 and 65,] *Except where the decree is executed by a Munsiff*, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a Village Court.

Judgment-debtor not to be arrested nor immovable property attached.

[50] 51. On the application of the decree-holder, the Village Court shall attach any movable property within its jurisdiction belonging to the judgment-debtor pointed out by the decree-holder to the value of the sum payable under the decree: provided that the following properties shall not be liable to such attachment, viz.,

Attachment of movable property.

- (a) the necessary wearing apparel, *cooking vessels*, beds, and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any behalf, woman;
- (b) tools of artizans and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such;
- (c) books of account;
- (d) stipends and gratuities [payable to Military and Civil] *allowed to pensioners of the Government or payable out of any service family pension fund notified in the Official Gazette by Government in this behalf*, and political pensions;
- (e) the salary due to a public officer or to any servant of a Railway Company or local authority;
- (f) the pay and allowances of persons to whom the Native Articles of War apply and of those belonging to the Mysore Military Forces as defined in the Code of Civil Procedure, 1911;
- (g) the wages of labourers and domestic servants *whether payable in money or in kind*.
- (h) *The arms, horse, clothes, equipments, regimental accoutrements and necessities of the members of the Mysore Military Forces;*
- (i) *Where the decree relates to a debt due or contracted by an officer who has insured his life under the rules in force relating to the Mysore State Life Insurance, any bonus payable or paid thereunder to such officer or in the event of his death to his nominee or other person or persons entitled to such bonus under the said rules;*
- (j) *Any amount payable by the Military Department to the members of the Mysore Military Forces out of a retiring fund.*

Palace of Mysore

Explanation.—The particulars mentioned in clauses (d), (e), (f), (g), (h) and (j) are exempt from attachment or sale whether before or after they are actually payable.

[51] 52. If the property is in the possession of the judgment-debtor, it shall be attached by actual seizure and the Village Munsiff shall provide for its safe custody. It may be left in the custody of the judgment-debtor upon sufficient security being given in writing for its production when required. On default, the decree may be executed against the surety to the value of the property not produced.

Attachment when property is in possession of the judgment-debtor.

[52] 53. If the property is not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Attachment when such property is not in possession of the judgment-debtor.

[53] 54. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money and the debtor from making payment thereof, until the further order of the Village Court. Nothing in this section shall be held to authorize a Village Court to attach or sell a debt charged on immovable property.

Debts how attached.

[54] 55. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Private alienation of property after attachment to be void.

[55] 56. If any claim is preferred to property attached in execution of a decree, the Village Court shall investigate the claim, and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Investigation of claims to attached property.

[56] 57. As soon as possible after attachment, the Village Court shall fix a day not less than fifteen days from the date of attachment for the sale of the property attached, and shall cause a written proclamation of the intended sale to be fixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto.

Sale of attached property.

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds subject to the provisions herein after made for payment of moneys attached in execution of decrees.

Proviso.

[57] 58. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the Village Munsiff and sold to the highest bidder. The price shall be paid without delay and in default the property shall again be put to sale.

Procedure in sale.

On payment of the purchase money, the Court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the [judgment-creditor] *decree-holder* or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

[58] 59. Any sale advertised under this Regulation may, at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by section [56] 57.

Powers to adjourn sale.

[59] 60. No Village Munsiff or other officer having any duty to perform in connection with any sale under this Regulation shall, either directly or indirectly, bid for or acquire any property sold at such sale.

Village Munsiff and other officers not to bid for or buy property sold.

[60.] 61. Every sale of property under this Regulation shall be stopped if, before the lot is knocked down, the amount due under the decree and the cost attending the sale are tendered to the Village Munsiff.

[61.] 62. Out of the moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the Division of proceeds of sale. decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

[62.] 63. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

[63.] 64. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser in other cases. Delivery of property to purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

[64.] 65. [Any decree passed by a Village Court may, on the application of the decree-holder, be transferred for execution] *On the application of the decree-holder, a Village Court which passed a decree may, if the decree cannot be fully executed by itself, transfer it for execution to the Munsiff who may execute the same as if it were a decree passed by himself, or may transfer for execution to the Court of any other village in which the defendant is represented to have movable property. Such Court shall proceed as if the decree was passed by itself.*

[65.] 66. It shall be competent to a Munsiff to withdraw for just and sufficient cause the execution of any decree from any Munsiff may withdraw execution of any decree. Village Court and to execute it himself, as if it were a decree passed by himself.

CHAPTER VII.

Miscellaneous.

[66.] 67. If a plaintiff or a defendant dies before decree is passed in the suit, the name of his legal representative may be entered in his place on the record on the application of the opposite party or of such legal representative, but [no decree shall be passed against] the legal representative of a deceased defendant *shall not be answerable for any decree that may be passed beyond the value of the assets derived from him and not duly accounted for.*

[67.] 68. If no such application is made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

[68.] 69. If there be more plaintiffs or defendants than one, and any of them dies and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

[69.] 70. If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the place of the deceased, and if the Court is satisfied, after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

[70.] 71. If a judgment-debtor dies before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor to the extent of the assets derived from him and not duly accounted for.

If judgment-debtor dies, decree may be executed against his legal representative.

[71.] 72. The Munsiff may, on a petition being presented within sixty days from the date of any decree or order of a village Court by any party deeming himself aggrieved by such decree or order, set aside such decree or order, on the ground—

Revision by Munsiffs of proceedings of Village Courts.

of corruption, gross partiality, or misconduct of the Village Court; or of its having exercised a jurisdiction not vested in it by law, or otherwise acted illegally or with material irregularity; or that the decree or order is clearly unjust or contrary to law; and may pass such other decree or order as he thinks fit; provided that no decree or order of a Village Court shall be set aside without notice to the opposite party.

Pending disposal of any such petition, the Munsiff may stay execution of the decree or order.

A petition under this section may be entertained after sixty days by the Munsiff if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a Village Court shall be final.

[72.] 73. Whenever under section [71] 72, the Munsiff sets aside a decree or order, he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality or misconduct.

Munsiff may, and in certain cases shall, report to District Judge.

[73.] 74. The Chief Court may, from time to time, prescribe forms for use in Village Courts and the returns which they shall be bound to submit. The District Judge or the Deputy Commissioner or the Munsiff may at any time call for and inspect the registers and records of Village Courts.

Power of Chief Court to prescribe forms and of District Judge, Deputy Commissioner and Munsiff to inspect records.

75. Notwithstanding anything contained in the Mysore Court Fees Regulation, 1900, no complaint, petition or Vakalatnama presented to a Village Court shall be chargeable with any fee under the said Regulation.

Exemption of complaints, etc., from payment of Court Fees.